

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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|-------------------------------------|---|------------------------------|
| MYNOR ABDIEL TUN-COS, <i>et al.</i> |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 1:17-cv-943 |
| |) | |
| B. PERROTTE, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

JOINT MOTION TO AMEND PROPOSED BRIEFING SCHEDULE

Defendants B. Perrotte, T. Osborne, D. Hun Yim, P. Manneh,¹ and Plaintiffs Mynor Abdiel Tun-Cos, José Pajarito Saput, Luis Velasquez Perdomo, Pedro Velasquez Perdomo, Germán Velasquez Perdomo, Eder Aguilar Aritas, Eduardo Montano Fernández, Nelson Callejas Peña, and José Carcámo, file this joint motion under Federal Rule of Civil Procedure 6(a) to amend the briefing schedule in this matter. The grounds for this motion are as follows:

1. On November 16, 2017, the Defendants and original Plaintiffs Tun-Cos and Saput filed a Joint Motion To Amend Briefing and Pretrial Schedule. [Dkt. #23.] At the time this joint motion was filed, counsel for the Defendants had not seen the proposed Amended Complaint but was advised that additional plaintiffs would be added in the Amended Complaint. Defendants' counsel's position is that he was unaware that the additional plaintiffs that Plaintiffs stated they

¹ Department of Justice representation has not been authorized for Defendants regarding the newly pled allegations. *See* 28 C.F.R. § 50.15. The agency must forward "all available factual information," along with Defendants' request and its recommendation, to the Department. 28 C.F.R. § 50.15(a)(1). Thus the undersigned represents them as to the newly pled claims solely for the purposes of filing this joint motion and the referenced motion under Rules 20(a) and 21.

would add would raise claims regarding an event on February 8, 2017, in Arlington, Virginia, whereas the original Plaintiffs' allegations regarded an event on February 17, 2017, in Annandale, Virginia.

2. It is Defendants' position that the claims raised by the seven additional Plaintiffs added through the amendment constitute a misjoinder of parties under Federal Rules of Civil Procedure 20(a) and 21. Defendants therefore are of the position that the claims of the seven new Plaintiffs effectively constitute a new and separate lawsuit, to which they would normally be entitled to sixty days to respond under Federal Rule of Civil Procedure 12(a)(3). Plaintiffs disagree.

Defendants intend to move this Court to strike, or in the alternative sever, the seven new Plaintiffs from this action under Federal Rules of Civil Procedure 20 and 21, and will explain the basis for their position in a motion filed under the proposed schedule articulated below on or before November 27, 2017.

3. In light of this dispute between the parties, and Defendants' intent to move this Court to strike or sever the seven new Plaintiffs and their allegations on joinder grounds, the parties jointly request the following revised briefing schedule in this matter:

- Defendants will file their motion under Rules 20 and 21 by: November 27, 2017.
- Plaintiffs will file a response in opposition by: December 11, 2017.
- Defendants will file a reply by: December 18, 2017.
- Arguments to be heard on: December 22, 2017.
- Defendants will file a Motion to Dismiss the Amended Complaint on January 16, 2018.
- Plaintiffs will file a response in opposition to the Motion to Dismiss by: February 6, 2018.
- Defendants will file a reply to the Motion to Dismiss by: February 13, 2018.

- Arguments to be heard on: February 23, 2018.

In light of the above agreed schedule, the parties respectfully request that the briefing schedule listed in Dkt. #23 be withdrawn, but that the portion of the joint motion, [Dkt. #23], pertaining to the scheduling order entered by the Court on November 8, 2017 (*i.e.*, that discovery cannot commence until Defendants' qualified immunity defense is adjudicated) otherwise remain in place; and that the pretrial conference currently scheduled for November 29, 2017, be removed from the docket..

A proposed order is attached.

Dated: November 27, 2017

Respectfully submitted,

/s/
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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of this filing to:

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